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Appln. No. 10/618,867
Amendment dated April 23, 2007
Reply to Office Action mailed January 26, 2007

REMARKS

Reconsideration is respectfully requested.

Entry of the above amendments is courteously requested in order to place all claims in this application in allowable condition and/or to place the non-allowed claims in better condition for consideration on appeal.

Claims 1 through 38 remain in this application. No claims have been cancelled or withdrawn. Claims 39 through 41 have been added.

The Examiner's rejections will be considered in the order of their occurrence in the Office Action.

Paragraphs 2 through 5 of the Office Action

Claims 1, 3, 4, 6, 7, 10 through 14, 16, 17, 19, 20 and 23 through 26 have been rejected under 35 U.S.C. §102(b) as being anticipated by Goode.

Claims 2, 5, 8, 9, 18, 21 and 22 have been rejected under 35 U.S.C. Section 103(a) as being unpatentable over Goode in view of Jernigan.

As previously noted, claim 1 requires, in part, "wherein said apparatus comprises a plurality of encoded video signals, said apparatus being capable of selecting a specific encoded video signal for decoding and display during the transition, a subject matter of said specific encoded video signal being based upon relevance of said encoded video signal to either a subject matter of content displayed by the first video source prior to the transition or a subject matter of content selected for display via the second video source following the transition". (Claim 26 includes a similar recitation.)

Turning first to the Response to Arguments portion of the final Office Action, it is stated there that:

It is noted that MPEG-2 standard having I, P, and B frames. The I, P, B frames are based upon relevance of the content of the video

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signal. Thus, the claimed "a subject matter of said specific encoded video signal being based upon relevance of said encoded video signal to either a subject matter of content displayed by the first video source prior to the transition or a subject matter of content selected for display via the second video source following the transition" is met by the conventional MPEG-2 compression of Goode et al.

It is submitted that while this statement may have some relevance to the content of the video signal, it does not convey to one of ordinary skill in the art anything about the "*subject matter* of the content displayed by the first video source" or the "*subject matter* of the content selected for display via the second video source", as required by the language of the claims. The matters of the MPEG-2 standard discussed in the final Office Action does not bear upon the *subject matter* of a video encoded under the MPEG-2 standard, and therefore it is submitted that one of ordinary skill in the art would not understand that the Goode system is capable of basing a relevance decision upon the subject matter of one or more videos.

It is therefore submitted that the Goode patent would not lead one of ordinary skill in the art to the requirements of claim 1 (and claim 26) regarding the relevance of the "*subject matter* of the content" of the video sources. New claims 39 through 41 further define this distinction, as claim 39 requires that "the subject matter of the content selected for display via the second video source is different than the subject matter of content displayed by the first video source", claim 40 requires that "the subject matter of the content is determined from an electronic program guide database," and claim 41 requires that "the subject matter of the content is determined from an entry in an electronic program guide for a station providing the content displayed on the first video source".

It is alleged in the Office Action that:

... the claimed wherein said apparatus comprises a plurality of encoded video signals, said apparatus being capable of selecting a specific encoded video signal for decoding and display during the transition based upon said encoded video signal's relevance to either a

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content's subject matter displayed by the first video source prior to the transition or a content's subject matter selected for display via the second video source following the transition is met by the generating a predefined images which stores in the image memory 128 that contains a plurality of bit map images, the bit map images can be selectively display, vide clips, audio clips, animation, graphical images and the like (Fig. 1, col. 3, lines 27-44 and col. 4, line 21 to col. 5, line 63).

Turning to the referenced portion of the Goode patent at col. 4, line 21 through col. 5, line 63, it appears that col. 5, lines 21 through 63 are the most pertinent, and state (emphasis added):

At step 205, the routine generates a predefined image. This image may be recalled from the image memory (128 in FIG. 1) and sets a transition timer within the decoder. As shall be described below, when the transition timer expires (times out), the routine begins a fade to the new video sequence. The predefined image can be a bit map image, but is more typically, a previously received and decoded sequence of MPEG encoded packets. In the preferred embodiment of the invention, the CPU instructs the MPEG decoder to "freeze" the image that is presently being displayed. Thus, the predefined image is all or a portion of a frozen last frame of video.

At step 206, the routine begins fading the presently displayed video image into the predefined image. In addition, the presently playing audio is also faded to a predefined audio signal, e.g., no sound. Typically, if predefined audio is desired, the predefined audio compliments or is, in some manner, associated with the predefined image stored in the image memory. Preferably, the predefined image is a white background containing a centrally located geometric shape or object. The object is generally designed to distract the user or the customer from observing the latency during command implementation. The predefined image is not required to be static and, for example, can be a video clip, animation segment, a series of static images and the like.

In the preferred embodiment, the frozen image contains a centrally located object that is common to the beginning and ending frames of all video images displayed by the system. To facilitate a transition from one video segment to another, the OSD function of the MPEG decoder is used to "fade" all or part of the frozen image to white. However, the centrally located object is not faded. The fade is accomplished by designating the entire screen except for the object as an OSD graphic region and then fading the graphic overlay from transparent to opaque. The centrally located object is keyed or otherwise associated with the previous video segment and is also keyed or associated with the upcoming video segment. As such, this object is contained in the beginning and ending sequence of all displayed video

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and the viewer experiences a spacial continuity from video segment to video segment.

However, it is submitted that nothing here describes or leads one of ordinary skill in the art to the requirement of claim 1 that "a subject matter of said specific encoded video signal being based upon relevance of said encoded video signal to either a subject matter of content displayed by the first video source prior to the transition or a subject matter of content selected for display via the second video source following the transition". The Goode patent instead discusses a predefined image that "is preferably a white background containing a centrally located geometric shape or object... designed to distract the user... from observing the latency".

It is submitted that one of ordinary skill in the art, considering this portion of the Goode patent, would recognize that there is no "capab[ility] of selecting a specific encoded video signal... based upon relevance of said encoded video signal to either a subject matter of content displayed by the first video source prior to the transition or a subject matter of content selected for display via the second video source following the transition". Instead, the Goode system employs the same "predefined image" at each transition that doesn't necessarily have any relationship to the video fading out and the video fading in, except for the frozen image fading out. There is no apparent indication that the predefined image is different between different transitions, and indeed Goode states that the "object [of the predefined image] is contained in the beginning and ending sequence of *all displayed video* and the viewer experiences a spacial continuity from video segment to video segment" (emphasis added). It is submitted that one of ordinary skill in the art thus would not understand that the Goode patent is disclosing "said apparatus comprises a plurality of encoded video signals". Thus, one of ordinary skill in the art is left with the definite impression that there is no "apparatus being capable of selecting a specific encoded video signal for decoding and display during the transition", as the predefined

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image never changes, especially based upon the subject matter of the content of the first or second video source. In fact, the Goode patent stresses the continuity of showing the same "predefined image" at each transition.

It is therefore submitted that one of ordinary skill in the art would not be led to the requirements of claim 1 by the Goode patent.

Claim 14

Claim 14 requires, in part, "wherein said apparatus is capable of extending the transition to *a predetermined time duration* when said output providing means switches from the first video source to the second video source, thereby ensuring that the decoded video signal is capable of being displayed in its entirety".

It is stated in the Response to Arguments portion of the final Office Action that:

In re pages 15-17, applicant argues, with respect to claim 14, that nothing in Goode patent discloses or suggests that the Goode system is "capable of extending the transition".

In response, the examiner respectfully disagrees. Goode et al discloses in col. 4, lines 57-61 that "FIG. 2 depicts a flow chart of the latency masking routine 200 of the present invention that is implemented in software and executed by the CPU within the set top terminal. This latency masking routine is executed whenever a customer selects a particular function that will result in latency, e.g..." It is noted that the customer selects particular function. Since customer selects function, the customer can extend the transition.

However, the language of the claim is not merely limited to requiring "capable of extending the transition" as stated in the rejection quote above, but requires "capable of extending the transition to *a predetermined time duration*". Also, nothing in the claim language touches upon the ability of the user to extend the transition, but instead is directed to the "capability [to] extend[] the transition to a predetermined time period" and "ensuring that the decoded video signal is capable for being displayed in its entirety".

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Further, it is submitted that the user's ability to select a function that might cause a latency does not indicate to one of ordinary skill in the art that one has the ability to control the latency, or to extend the latency for a "predetermined time period. Turning to the referenced portion of the Goode patent, it is stated at col. 4, lines 57 through 63 that:

FIG. 2 depicts a flow chart of the latency masking routine 200 of the present invention that is implemented in software and executed by the CPU within the set top terminal. This latency masking routine is executed whenever a customer selects a particular function that will result in latency, e.g., any function that must be implemented by the server such as a function that affects the data stream.

It is submitted that this portion of the Goode patent does not disclosed to one of ordinary skill in the art extending the transition to "a predetermined time period" (as required by the claim) or indicates that the predefined image of Goode will be displayed in its entirety" and not interrupted or shortened in duration based upon when the "new information stream" is received..

It is noted that the rejection of the previous Office Action relied upon a different aspect of the Goode system, and specifically stated that (emphasis added):

4) the claimed wherein said apparatus is capable of extending the transition to a predetermined time duration when said output providing means switches from the first video source to the second video source, thereby ensuring that the decoded video signal is capable of being displayed in its entirety is met by the setting a transition timer within the decoder (Fig. 2, col. 5, line 21 to col. 6, line 30)

However, it is submitted that the Goode patent is not clear as to whether it is the "transition timer" that governs the time between fade out of the initial video and fade in of the following video. On one hand, block 212 of Figure 2 of Goode states "WAIT FOR NEW INFORMATION STREAM UNTIL TRANSITION TIMER EXPIRES", which seems to suggest that it is the transition timer that controls the length of the transition, as well at col. 5, lines 21 through 26, where it is stated that (emphasis added):

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At step 205, the routine generates a predefined image. This image may be recalled from the image memory (128 in FIG. 1) and sets a transition timer within the decoder. As shall be described below, when the transition timer expires (times out), the routine begins a fade to the new video sequence.

However, in apparent direct contrast to this is the statements in Goode at col. 6, lines 6 through 13:

At step 212, once the decoder is reset, the set top terminal awaits the new information stream while continuously displaying the predefined image. At step 214, the new information stream is received and begins to be decoded such that the set top terminal may then fade from the predefined image that is presently being displayed to imagery decoded from the new information stream.

This portion of the Goode patent clearly creates the impression that it is the arrival of the "new information stream" that controls the fade out from the transitional "predefined image".

Further, it is noted that nothing in the portions of the Goode patent cited in the rejection discloses or suggests that the Goode system is "capable of *extending* the transition", as again it is not clear whether it is the transition timer or the arrival of the new information stream that actually controls the fade in of the subsequent video.

It is therefore submitted that the Goode patent would not lead one of ordinary skill in the art to the requirements of claim 14, particularly the requirement identified above.

Withdrawal of the §102(b) and §103(a) rejections of claims 1 through 26 is therefore respectfully requested.

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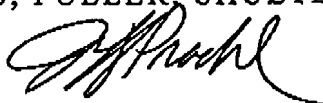
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CONCLUSION

In light of the foregoing amendments and remarks, early reconsideration and allowance of this application are most courteously solicited.

Respectfully submitted,

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